

Program: Indiana Court of Appeals

Speakers: Various – including three Appellate Judges – Edward W. Najam (from Monroe County), Margret G. Robb (From Tippecanoe County), and Presiding Judge Cale J. Bradford (from Marion County) plus an Appellant Attorney and an Appellee Attorney.

Introduced by: Steve Springer

Attendance: 78 (including some unidentified guests)

Scribes: Dick Garrett

Editor: Jim Willson

Thank you, Steve Springer, for this very interesting and stimulating program. Personally, it was my first time to be in a courtroom and it was something I would like to do again. What appeared to be a very simple situation turned complex in a hurry.

As a graduate student I suffered through two major oral exams and I am sympathetic with difficulty faced by both attorneys. It is hard to imagine the preparation required for a really difficult and major case. This experience made me proud of our judges and lawyers and our system. This also clearly spells out the purpose of legal research.

Here is the situation that brought rise to this trial. The town of Culver Indiana was living with a derelict building that was both an eyesore and a dangerous nuisance. They had tried by the usual means to motivate the owner to either repair it or tear it down, but action was not forthcoming. Whereupon the Marshall County Unsafe Building Committee officially declared it an unsafe building and a public nuisance.

The building was owned by a corporation (don't recall name) and the town brought legal action against Scotty Van Hawk who was at the head of this corporation. The suit claims that the actions taken by the Town were in violation of a state law and thereby invalid. The only way a case can be appealed to the Court of Appeals is if the losing party has found "supposed errors" made in the trial at the circuit court level. The supposed error was that the Marshall County Unsafe Building Committee did not have the authority to make their declaration.

Each set of lawyers has approximately thirty minutes to have their conversation (argue their case – the three judges favor a "conversation" rather than an "argument") with the judges. The bailiff has a set of green, yellow and red lights that tells the speaking lawyer how they are doing on time. Time was a serious issue in this trial; the parties were expected to precisely follow their allotted times.

The appellant lawyer (they represent the part that is unhappy with the lower court ruling) goes first to spell out their view of the law and the law as it applies to this case. It was a vigorous back and forth between the judges and the attorney. Next, the appellee attorney presents the case for the Town. Again, the judges seemed well prepared and challenged her with vigor. In fact, they seemed to pounce on each one. It was impressive the way the attorneys stood their ground.

Lastly, five minutes were allowed to the first attorney to rebut the just presented argument. At the conclusion of this five-minute period the court adjourned.

The three judges, Edward W Najam Jr. (from Monroe County), Margret G Robb (from Tippecanoe County) and presiding judge Cale J. Bradford (from Marion County) were impressive and very precise in their questions. They were obviously well prepared, having done their homework. The notation of

their former home county gives their former addresses; there is only one Court of Appeals in the state and it is here in Indianapolis and it is assumed they live near-by. They are three of fifteen Appeals Court judges. In Indiana, as in most states, three judges preside over every hearing. There are no juries and never more than three judges. Unlike most states, Indiana judges give written opinions at the conclusion each trial (several weeks later). They try to come to agreement but sometimes there can be one dissenting judge.

Perhaps unknown to the judges, about two weeks ago the property in question burned down. This never came up in the trial and one of the attorneys said they were not allowed to bring it up. Of course, ordering them to destroy the building requires three steps: the tear down, the haul away and the preparation of the ground. The fire was only one step thus making the issue irrelevant.

At one point a judge asked who the "owner of record" was for the property; the answer was Scotty Van Hawk's corporation, but it was also stated that this corporation was recently dissolved leaving an uncertainty as to who actually owns the property. I suspect that the attorneys protesting the circuit court ruling were being paid by the "owner". Nobody bothered to ask them about the name of their client.